

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



STONEY HARRISON,

v.

19-CV-151 (JLS) (LGF)

B.J. GABEL, KEVIN BROWN, AHMED
MUHAMMAD, AND STEWART
ECKART,

Defendants.

DECISION AND ORDER

Plaintiff Stoney Harrison commenced this action on January 28, 2019. Dkt.

1. Pursuant to an Order issued by District Judge Lawrence J. Vilardo on November 14, 2019 (Dkt. 3),¹ Plaintiff filed an Amended Complaint on December 30, 2019.

Dkt. 4. The Amended Complaint asserts claims under the First Amendment, Fourteenth Amendment, and Religious Land Use and Institutionalized Persons Act 42 U.S.C. § 2000cc (“RLUIPA”) based on Defendants’ alleged refusal to allow Plaintiff to wear his white shirt and bowtie while attending religious services. *Id.*

On April 13, 2020, this Court referred the case to United States Magistrate Judge Leslie G. Foschio for all proceedings under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt. 9. Following a motion to dismiss (Dkt. 8) and a Report and Recommendation (Dkt. 13), this Court issued a Decision and Order dismissing Plaintiff’s RLUIPA claims for money damages against Defendants in their

¹ The case was reassigned to the undersigned on February 14, 2020. Dkt. 6.

individual capacities as well as all damage claims against Defendants in their official capacities. Dkt. 17.

On October 21, 2022, Defendants² Brown, Eckert, Muhammad, and Nelson moved for Judgement on the Pleadings. Dkt. 15. Plaintiff opposed Defendants' motion on November 12, 2021. Dkt. 18. Defendants did not file a reply.

On August 23, 2022, Judge Foschio issued a Report and Recommendation ("R&R"), recommending that this Court grant Defendants' motion (Dkt. 15) and dismiss the Amended Complaint with prejudice and without leave to amend. Dkt. 19. On September 15, 2020, Plaintiff objected to the R&R. Dkt. 22. Defendants responded to Plaintiff's objections, and Plaintiff replied. Dkt. 24, 25.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. See 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

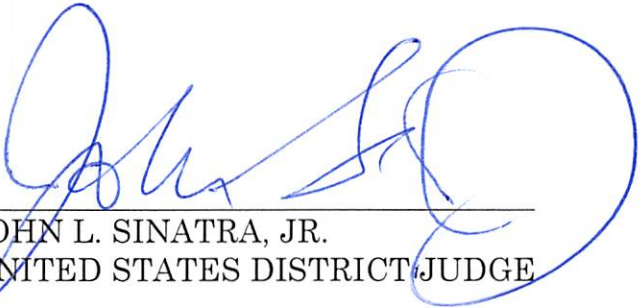
² Defendant B.J. Gabel is no longer a party to this action.

This Court carefully reviewed the R&R, the objection, response, and reply, and the materials submitted by the parties. Based on its *de novo review*, the Court accepts Judge Foschio's recommendation.³

For the reasons stated above and in the R&R, the Court GRANTS Defendants' Motion (Dkt. 15). As a result, the Amended Complaint is DISMISSED without leave to amend.

SO ORDERED.

Dated: November 8, 2022
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE

³ The Court further notes that, because Plaintiff is no longer housed at Wende, *see* Dkt. 20, his claims are moot. *See Booker v. Graham*, 974 F.3d 101, 107 (2d Cir. 2020) (stating that, in the Second Circuit, "an inmate's transfer from a prison facility generally moots claims for declaratory and injunctive relief against officials of that facility") (internal citations omitted).